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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/535,566	05/19/2005	Norio Okada	38267	7694
116 7590 09/24/2007 PEARNE & GORDON LLP 1801 EAST 9TH STREET SUITE 1200 CLEVELAND, OH 44114-3108			EXAMINER TORRES, MARCOS L	
			ART UNIT 2617	PAPER NUMBER
			MAIL DATE 09/24/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/535,566	Applicant(s) OKADA ET AL.	
	Examiner Marcos L. Torres	Art Unit 2617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 June 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>5/19/05</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. In view of the amendment filed 6-21-07 claims 5-7 are being treated on their merits.
2. Applicant's arguments with respect to claims 1-7 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
4. Claim 6 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
5. Claim 6 recites the limitation "said operating panel" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

Art Unit: 2617

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

8. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

9. Claims 1-7 rejected under 35 U.S.C. 103(a) as being unpatentable over Shibata 20010004269 in view of Bum 7200423.

As to claim 1, Shibata discloses a mobile communication apparatus, comprising: displaying means for displaying image data or character data on a screen (see fig. 1, item 21); operating means for selectively performing operations (see fig. 9, item 17); rotating means for connecting said displaying means with said operating means with said displaying means and said operating means being rotatable with respect to each other around a rotation axis extending in the longitudinal direction of said displaying means and said operating means (see fig. 1, item 30,31,32); setting means for selectively setting predetermined operation modes in response to the rotation positions of said displaying means and said operating means assumed when said displaying

Art Unit: 2617

means and said operating means are rotated with respect to each other through said rotating means said setting means is further responsive to the direction of relative rotation between said displaying means and said operating means, for controlling said operation modes in accordance with detected directions (see par. 00239-0247). Shibata does not specifically disclose detecting directions of rotation. In an analogous art, Bum discloses detecting direction of rotation (see col. 3, lines 13-53). Therefore, it would have been obvious to one of the ordinary skill in the art at the time of the invention to detect the direction of rotation for the simple purpose of setting the correct operating mode according to the rotation (for example the correct displaying side).

As to claim 2, Shibata discloses a mobile communication apparatus which further comprises a body provided with said displaying means, and said operating means and divided into at least two housings along a lateral direction perpendicular to said rotation axis, said housings being pivotally connected by said connecting means (see fig. 1, items 20, 10).

As to claim 3, Shibata discloses a mobile communication apparatus in which said housings are constituted by a screen side housing having said displaying means accommodated therein, and an operating panel side housing having said operating means accommodated therein (see fig. 1, items 20, 21, 10).

As to claim 4, Shibata discloses a mobile communication apparatus as set forth in claim 2, in which said rotating means includes a rotation shaft provided in one of said housings, and a retaining unit provided in the other of said housings to allow said rotation shaft to be rotatable around said rotation axis (see fig. 1, item 30,31,32).

As to claim 5, Shibata discloses a mobile communication apparatus, which further comprises rotation angle detecting means for detecting the rotation angle of said rotating means, and in which said setting means is operative to selectively set said operation modes in response to said rotation angle detected by said rotation angle detecting means (see par. 0030, 0239-0247).

As to claim 6, Shibata discloses a mobile communication apparatus, which further comprises a camera unit accommodated in said operating panel side housing (see fig. 2, item 33).

As to claim 7, Shibata discloses a mobile communication apparatus, which has additional operation modes and further comprises sub-operating means for operating said additional operation modes, said sub-operating means being provided on one surface opposite to other surface on which said operating means is provided, and in which said setting means is operative to set a telephone mode when said display means accommodated in one of said housings and said operating means accommodated in the other of said housings are in non-twisted relationship with each other, and said setting means is operative to set an additional operation mode when said display means accommodated in one of said housings and said sub-operating means accommodated in the other of said housings are in twisted relationship with each other (see par. 0239-0247, 0251,0252).

Conclusion

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

Art Unit: 2617

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any response to this Office Action should be mailed to:

U.S. Patent and Trademark Office
Commissioner of Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Or faxed to:

571-273-8300

for formal communication intended for entry, informal communication or draft communication; in the case of informal or draft communication, please label "PROPOSED" or "DRAFT"

Hand delivered responses should be brought to:

Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marcos L. Torres whose telephone number is 571-272-7926. The examiner can normally be reached on 8:00am-6:00 PM alt. Wednesday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, George Eng can be reached on 571-252-7495. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Marcos L Torres
Examiner
Art Unit 2617
/mlt/
mlt


GEORGE ENG
SUPERVISORY PATENT EXAMINER